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ABSTRACT

Constitutional challenges to state statutory schema for distributing education dollars to local school districts has provided a study course of litigation in state court systems since the early 1970s. This paper is an analysis of 10 of these cases, which were ruled upon in the first half of the 1990s. The focus is on constitutional deficiency and how each state's educational plan was seen as containing inequities. Cases from Tennessee, Alabama, Massachusetts, North Dakota, Arizona, Nebraska, Minnesota, Florida, Oregon, and New York are briefly described and the court ruling outlined. Some of the reasoning behind decisions of constitutionally deficient systems include cases where poorer districts were in an unfavorable position in the generation of per-pupil revenue, where the state funding structure produced inequitable educational opportunities for students, where the state legislature had failed its constitutional obligation to provide all children the equal opportunity for adequate education, and where the court declared that the state's educational system violated the education provision and the equal protection clause of the state's constitution. In each case, the court rendering the final decision was convinced by evidence that inequities in funding translated into unconstitutionally disparate educational programs and services offered to students. (Contains 100 endnotes referencing the cases.) (RJM)

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RECENT EDUCATION FINANCE LITIGATION

State Education Funding Systems Ruled Constitutionally Deficient in Tennessee, Alabama, Massachussetts, North Dakota, and Arizona
State Systems Upheld in Nebraska, Minnesota, Florida, Oregon, and New York

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RECENT EDUCATION FINANCE LITIGATION

State Education Funding Systems Ruled Constitutionally Deficient in Tennessee, Alabama, Massachussetts, North Dakota, and Arizona
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Constitutional Challenges to state statutory schema for distributing education dollars to local school districts have provided a steady source of litigation in state court systems since the early 1970s. In the typical traditional lawsuit the state statutory provisions for funding public education were litigated based on lack of fiscal equity, in light of the equal protection provision and/or education article of the state constitution. In many of the more recent lawsuits (from the late 1980's), equity has been defined in terms of the *results* of the interdistrict funding patterns, with a focus on disparate educational programs and services available to students as opposed to simple funding disparities. Additionally, much of the recent litigation has included an adequacy element, with a focus on alleged educational deprivation of students in some areas of the affected state, linked to constitutionally deficient state funding structure.

Plaintiffs in finance distribution suits achieved tremendous success in the late 1980s and early 1990s, winning lawsuits in Texas,[1] Montana,[2] Kentucky,[3] and New Jersey.[4] The years since those four cases were decided have produced mixed results, with plaintiffs winning lawsuits in some of the

states and losing in others. The current article includes an analysis of five cases decided in the first half of the 1990s that resulted in rulings of constitutional deficiency, followed by a summary of five court decisions upholding state methodologies.

Tennessee

In *Tennessee Small School Syst. v. McWherter*[5] the Tennessee education finance distribution system was litigated in light of both on the education clause[6] and the equal protection provision[7] of the Tennessee Constitution. The trial court hearing the case had ruled for the plaintiffs, a decision reversed by the court of appeals. The Supreme Court of Tennessee reversed the appeals court decision, declaring the system constitutionally deficient. The Supreme Court decision was based strictly on the equal protection clause, without a condemnation of the funding system based on the education clause.

The existence of funding disparities was not denied by the defendants. The state foundation program did not provide a distribution of funds that resulted in exactly equivalent funding levels per student among districts. Instead plaintiffs focused on the *effects* of these fiscal disparities, specifically that these funding variations in turn resulted in disparities in educational programs and services available to students.[8]

A major issue was the quality of educational programs available to students in the poorer districts in the state, reflecting the correlation between monetary resources and overall educational program delivery. The court was presented data detailing substantive differences of educational programs among Tennessee school districts. Among these differences were availability of computers in schools, new textbooks, conditions of facilities, availability of advanced placement courses, varied curricula, and other indicators of programmatic quality. Additionally, data were presented indicating wealthier districts were more likely to achieve accreditation, reflecting the variant effects of the distribution of resources. These differences, in turn, allegedly impacted the quality of education available to students in the poorer districts.[9]

The court rendered the decision in light of the state equal protection provision, relying on the rational relationship standard to examine the funding system. The court was not convinced that local control was a rational justification for the Tennessee funding system. The court ruled that the state was responsible for facilitating relatively equivalent educational programs among *all* school districts, and had failed to do so. The system in the court's view failed the rational basis standard.[10]

The equal protection ruling additionally included a taxpayer equity element. The court heard evidence that the majority of the local districts with the least potential to

generate local revenue, based on poor local tax bases, included higher than average millage rates while the majority of the districts with the highest potential taxed below state average.[11] Despite greater effort poorer districts were in a disfavorable position in generation of per-pupil revenue. The court found the existence of this taxpayer inequity severe enough to be "constitutionally impermissible."[12]

Alabama

In the decision *Alabama Coalition for Equity, Inc. v. Hunt*,[13] the Circuit Court for Montgomery declared the Alabama funding system unconstitutional in light of both the education clause[14] and the equal protection clause[15] of the Alabama Constitution. The court condemned the state funding structure as contributing to a system of schools that was "inadequate by virtually any measure of educational adequacy, including the state's own standards and other professionally recognized measures of adequacy."[16] The court further ruled the funding system constitutionally deficient due to the lack of equity inherent in the distribution of educational resources among Alabama school districts.

The court declared that adequacy connoted "sufficiency for a purpose or requirement."[17] The measures used by the court to determine adequacy included accreditation standards throughout the schools, substantive Alabama educational standards, and other indicators of school quality such as drop-out rates, college-level remediation rates, and student

preparation for the work force.[18] Using standards derived from these broad areas the court declared that "Alabama schools fall below standards of minimal educational adequacy that have been adopted by the state itself, including those related to facilities, curriculum, staffing, textbooks, supplies and equipment and transportation."[19] The court further ruled that inadequacies were demonstrated by high drop out rates, the need for remediation of college students educated in Alabama public schools, and evidence of the lack of preparation of Alabama public school graduates for the workforce.[20]

The Court additionally condemned the funding structure as producing unconstitutionally inequitable educational opportunities for students in Alabama.[21] Substantial interdistrict disparities in funding existed, based on variant levels of local wealth and resultant ability to raise revenue to support education.[22] The Court declared that funding disparities among local districts resulted in an inequitable availability of resources for education.[23] Although the court admitted that more than funding was involved as a determinant of equal opportunity, programs cost money, and differences in funding translated in variations in the quality of educational programs.[24] The state, according to the court, had denied certain students equal educational opportunity through failure to sufficiently alleviate disparate funding levels.[25]

The decision by the Circuit Court remains intact. At the time of this writing the Supreme Court of Alabama has declined to review the decision of the lower court.[26]

Massachussetts

The Massachussetts Supreme Court in *McDuffy v. Secy. Exec Off. of Educ.*[27] ruled that the Massachussetts Legislature had failed its constitutional obligation to provide all children the equal opportunity for adequate education, in violation of the education clause of the Massachussetts Constitution.[28] The court heard evidence from plaintiffs that inadequate educational opportunities existed for children in plaintiff school districts. Plaintiffs had contended that schools in plaintiff districts were subject to inadequate curricula in basic and enrichment subjects, inadequate curriculum development, reductions in administration and guidance services, crowded classrooms, and the inability to attract and properly train teachers. Selected comparison districts, based on greater fiscal capacity, were noted as having extensive reading and writing programs, extensive computer instruction, thorough teacher training and development, extensive systems of student services, and availability of enrichment courses.[29]

Plaintiffs had enumerated several factors that led to these variable distributions of educational resources among the school districts of the state. First, local contributions to education funding were relatively large,

resulting in a strong link between local ability and support for education. Second, the state did not require a minimal level of education support from local districts, therefore not ensuring a minimally adequate level of support. Third, state aid was insufficient to ensure a basic program. Fourth, state aid was unpredictable from year to year, thereby complicating fiscal difficulties for local districts. And fifth, state aid for education was distributed to city and town governments to be distributed in turn to local schools, and there was no guarantee that the funds would actually be utilized for educational support.[30]

Based primarily on these conditions the court determined that the state system of fiscal support for education was not sufficient in ensuring an adequate educational opportunity for all students.[31] The court made it clear that the Massachussetts constitution did not mandate exactly equal per pupil expenditures, but that sufficient resources to ensure adequacy of educational programs be available to all students.[32]

North Dakota

The North Dakota education funding system was challenged as violating the education provisions[33] and the equal protection clause[34] of the North Dakota Constitution. The lower court hearing the case declared the system unconstitutional and retained jurisdiction to enforce compliance with the ruling. The Supreme Court of North

Dakota in *Bismarck Public School District #1 v. State*[35] affirmed the constitutional deficiency ruling of the lower court, yet overturned the retention of jurisdiction ruling, claiming that the development of education financing structures was a Legislative rather than a judicial responsibility.[36]

The high court in its equal protection analysis rejected the rigorous strict scrutiny analysis, claiming that such an examination might be construed as micro-management of education finance by the judiciary.[37] The court further rejected simple rational relationship analysis, citing education as an important substantive right beyond the scope of the rational basis assessment. Rather, the court utilized the mid-tier heightened scrutiny analysis.[38]

The education provision of the constitution included a uniformity requirement, and therefore the court analyzed the evidence of programmatic disparities among school districts with both a uniformity and an equal protection (given the heightened scrutiny analysis) lens. The court was convinced based on the evidence presented at trial that substantive uniformity among districts did not exist, based on variances in educational programs provided to North Dakota school children.[39] This lack of uniformity led, according to the court, to adverse educational consequences for students in poorer areas of the state.[40] The court therefore ruled the system violative of both the education provision and the equal protection clause of the North Dakota Constitution.

Arizona

The plaintiffs in *Roosevelt Elementary School District No. 66 v. Bishop*[41] challenged the statutory provisions for financing capital facilities in Arizona, leaving unchallenged the state system for funding the general education program. Capital facilities funding in Arizona, because it was strongly linked to district wealth, was challenged as violating both the education article[42] and the equal protection provision[43] of the Arizona Constitution. The trial court originally hearing the case dismissed, and upon appeal the Supreme Court of Arizona reversed and remanded, declaring the ENTIRE Arizona education finance distribution system unconstitutional.[44]

Plaintiffs had claimed that a heavy reliance on local property tax sources to defray capital costs had resulted in widely disparate conditions of facilities among local school districts.[45] The high court agreed that disparities in facilities were violative of the uniformity requirement of the Education Article. The court broadened the ruling, however, to include general funding in addition to capital facilities funding, recognizing the fact that general funds were often used to supplement facilities costs, and that the disparities in facilities were one symptom of a deficient overall funding system.[46]

The court disagreed with the defendants' argument that the state was simply delegating responsibility for financing

facilities to local school districts, a strongly rooted historical tradition. The court opined that the education article conferred responsibility for education on the state, not local districts. According to the court, the state could delegate *authority* for administration of schools, but could not constitutionally delegate *responsibility*.[47]

The court therefore declared the entire system, both capital facilities and general funding, violative of the uniformity requirement of the education article. Gross disparities were evident in the area of capital facilities, and these disparities, according to the court, resulted in a non-uniform system of education.[48] Because the education article was more specific about state educational responsibilities than the privileges and immunities clause, the court ruled only in light of the education article.[49]

Nebraska

The Supreme Court of Nebraska upheld that state's education finance system as constitutionally valid in *Gould v. Orr*.[50] The statutory scheme for funding education had been charged as violating equal protection of the law, equal and adequate educational opportunity, and uniform and proportionate taxation, as specified in the Nebraska Constitution.[51] The trial court upheld the distribution system, ruling that education did not warrant fundamental status according to the Nebraska constitution and that legislative reform of 1990 had substantially altered the

finance distribution system while the case had been litigated. The Supreme Court of Nebraska upheld the lower court ruling.[52]

The evidence presented at trial left no doubt that true inequities, as defined by simple fiscal distributions, existed among Nebraska school districts. Seventy-five percent of funding for education was derived from local sources, and therefore a definite link between local taxable value and revenues in support of education existed. In addition to these undisputed per-pupil inequities, the system was characterized by inequities among taxpayers of the state due to interdistrict variations in assessed property valuation. In poorer districts fewer dollars were generated per pupil despite generally higher than average millage rates.[53]

The supreme court in its decision made it clear that despite these per pupil and taxpayer fiscal disparities the plaintiffs did not "allege any assertion that such disparity results in inadequate education."[54] The court was unwilling to declare the system unconstitutional without demonstration by the plaintiffs that these real disparities had substantive effects on children being educated. The court, in its view, was not provided sufficient evidence that unequal educational funding in and of itself was indicative of a constitutionally deficient fiscal support structure.[55]

Minnesota

Plaintiffs in *Skeen v. State*[56] challenged the Minnesota education finance system on more narrow grounds than most of the other cases. The attack was focused on the statutory provisions for three excessive levies, the supplemental, referendum, and debt service levies. These optional local levies allowed districts to supplement revenues derived through the basic equalization funding system. The revenues generated through the three excessive levies constituted only approximately 7 percent of total resources for education, and the proceeds were unequalized by the state.[57]

The inclusion of these excessive levies in the state system for distributing education funding was challenged as violating the education clause of the Minnesota Constitution, requiring the provision by the legislature of "general and uniform system of public schools."[58] Additionally, the plaintiffs challenged the system based on the equal protection provision of the Minnesota Constitution.[59] The lower court hearing the case ruled in favor of the plaintiffs, declaring the system constitutionally deficient. The Supreme Court of Minnesota reversed the lower court decision, finding insufficient evidence of violation of either constitutional provision.[60]

The plaintiffs in the case clearly claimed constitutional violation based on *relative* deprivation, due to the funding disparities brought on by the three excessive levies. The plaintiffs made no claim of absolute deprivation

of educational services to any children (the adequacy issue). The plaintiffs admitted that all plaintiff school districts were meeting requirements established and maintained by the state. Nevertheless, the existence of unequalized excessive levies among the districts were challenged by the plaintiffs as violating the uniformity requirements of the constitution.[61]

According to the court, the three excessive levies were not be found violative of the education clause for two reasons. First, the interpretation of "general and uniform" as provided in the education clause[62] was broad, and did not necessarily mandate identical levels of funding among school districts. Second, proportion of total education revenues raised through the three excessive levies was small, and therefore the extent of the disparities was minimized.[63]

The court in addition to the education clause analysis upheld the system in light of the state constitution equal protection clause. The court undertook typical equal protection analysis, rendering rulings on both fundamentality and suspect class. Though a "close question," the court determined education to be a fundamental right according to the Minnesota Constitution.[64] Though education per se was ruled fundamental, the court concluded that the constitution did not impose a requirement of complete funding equality beyond an adequate level.[65] The court refused to recognize a suspect class consisting of children living in poorer school districts.[66]

The court determined that because the basic education was being provided, the rational relationship standard rather than strict scrutiny was appropriate for examining the issues in the present case. The court found that the three excessive levies provided local districts the opportunity to supplement the educational program provided for through the equalization system, and that this was rational.[67] In sum, the court found that neither inadequacies nor widespread inequities existed among Minnesota school districts, and therefore the funding system passed constitutional muster.[68]

Florida

The Second Circuit Court of Florida upheld the Florida Education Finance Program as constitutional in *Coalition for Adequacy and Fairness in School Funding, Inc., v. Chiles*[69] in light of the education clause of the Florida Constitution, mandating that "adequate provision shall be made by law for a uniform system of free public schools."[70] The court in its ruling emphasized separation of powers among the branches of government. The plaintiffs had asked the court to declare the entire system of funding education unconstitutional carte blanche, and the court made it clear that such a sweeping proclamation would involve judicial intrusion into the realm of legislative authority. The court was unwilling to take such a bold step.[71]

The court in its ruling undertook a strict grammatical examination of the education clause, ruling that "adequate

provision for a uniform system" meant exactly that. In other words, the court interpreted the clause as requiring the legislature to ensure sufficient funding to provide an equitable distribution of educational dollars among school districts. In the view of the court the Florida Legislature, through the state foundation system, was providing a uniform distribution of an adequate level of funding for every student. Through this equalizing foundation program, according to the court, the Legislature was fulfilling its constitutional obligation as specified by the education clause.[72]

Oregon

The plaintiffs in *Withers, et.al. vs. State*[73] challenged a transitional state education funding mechanism only. The state had amended the Oregon Constitution to provide local districts the option of raising additional revenues through property taxation (with limitations and constraints established by the state) if revenues provided through the general finance structure were considered inadequate to meet state educational mandates.[74] The state further provided supplementary funding to districts for a period of five years to adjust to the new methodology.

The plaintiffs challenged the transitional funding as violative of education clause[75] and the equal protection provision[76] of the Oregon Constitution because of resultant distributional inequities. The plaintiffs did not argue that

funding as a whole was inadequate for Oregon school children or that the permanent funding methodology was constitutionally deficient. Rather, the plaintiffs attacked inequities resulting from state provisions for transitional funding.[77]

The trial court ruled in favor of the state, and the Oregon Supreme court affirmed, declaring the transitional funding system constitutionally satisfactory. The court, citing precedent established in *Olsen v. State ex. rel Johnson*,[78] ruled that the uniformity requirement of the education clause mandated a uniform "prescribed course of study," not equivalent funding levels. The existence in funding inequities, according to the court, did not undermine maintenance of a uniform basic provision of education.[79]

In the area of equal protection, the court relied on the rational relationship standard of review. According to the court, the state had as a rational goal allowing districts to adjust to a new funding methodology. Such a transitional aid mechanism would alleviate economic hardships associated with the adjustment.[80] Therefore, the court found the transitional funding mechanism constitutionally appropriate.

New York

The New York Supreme Court, Appellate Division refused to declare that state's statutory scheme for financing education constitutionally deficient on two occasions during the 1990s. The high court in *Reform Educational Financing*

Inequities Today (R.E.F.I.T) v. Cuomo[81] declared the state funding system nonviolative of the education article[82] and equal protection clause[83] of the New York Constitution and the education clause of the U.S. Constitution.[84] The court, relying on precedent established by the high court in *Board of Education, Levittown, etc. v. Nyquist*,[85] ruled that the state constitution did not mandate equivalent interdistrict per-pupil expenditures. The court in the present case disagreed with plaintiffs that increased interdistrict disparities educational inadequacies in poorer districts had rendered *Nyquist* dispositive.[86]

In a combined decision resulting from two separate suits, *Campaign for Fiscal Equity, Inc. v. State* and *City of New York v. State*,[87] the Supreme Court, Appellate Division upheld the funding system as viable according to several federal and state constitutional and statutory provisions. To better understand these issues and the high court decision, a discussion of the decision by the trial court is presented.[88]

The lower court ruled on several issues brought to it by plaintiffs in the two cases, and for simplicity the issues from both cases will be discussed together. First, the New York funding system was charged with violating the education article of the New York Constitution.[89] Plaintiffs had argued that the state did not provide sufficient resources to school districts to ensure a sound basic education as mandated in the education article. Evidence was provided by plaintiffs

indicating supporting this claim of insufficient resources, including conditions of facilities, provision of courses, availability of guidance services, etc.[90]

The court cited *Nyquist*[91] as precedent in determining disposition of the education clause complaint. Plaintiffs in *Nyquist* had attacked lack of equality of the distribution of funding for education but did not claim lack of basic educational opportunity for students. The court in the present case ruled that because the plaintiffs claimed lack of sufficient resources to ensure an adequate education, *Nyquist* was dispositive. Therefore, the court determined that sufficient cause had been established for further determinative action.[92]

The court additionally ruled on challenges based on the equal protection clause of both the U.S.[93] and New York[94] Constitutions. The court again cited *Nyquist*, in which the system was upheld in light of both of these equal protection provisions. The court in the present case ruled that the system was substantially similar to the system upheld by the *Nyquist* court and therefore dismissed the equal protection challenge.[95]

The court additionally ruled on claims of racial discrimination in violation of Title VI of the Civil Rights Act of 1964,[96] based on the high proportion of minority students served in poorer areas of New York. The court ruled that no disparate impact had resulted from the state

statutory scheme for education funding, and therefore the court dismissed the claim.[97]

Plaintiffs had additionally claimed discrimination in violation of the equal protection clause of the New York Constitution.[98] The court in this instance that only discrimination of effect need be demonstrated, not necessarily discrimination of intent. Therefore the court ruled that plaintiffs had sufficient cause for action.[99]

The high court reviewed the decision of the lower court. Basically, the statutory scheme for funding education was ruled non-violative of any of the state or federal provisions brought before the court.[100]

Conclusions

Litigation of state statutory schema for funding education has shown no slowing in recent years. State courts through the first half of the 1990s have struck down several state systems as constitutionally deficient. In each of these decisions, the court rendering the final decision was convinced by evidence that inequities in funding translated into unconstitutionally disparate educational programs and services offered to students. Additionally, in each case except Roosevelt the court was convinced that the funding scheme allowed constitutionally violative educational deprivation for some public school students.

Generalizations about trends in such litigation may be derived from the results of all ten of the decisions

discussed in this article. First, the courts are reluctant to strike down statutory schema for public school funding absent convincing evidence that interdistrict dollar inequities translate into meaningful disparities in educational programs and services provided to students. The key factor is not how many educational dollars are available or are spent but rather what the educational dollars buy.

Second, plaintiffs are finding success by utilizing an adequacy argument in conjunction with the equity argument. The question addressed is whether the state funding system provides sufficient funding to ensure a fundamental level of educational services to all students, even in the poorest areas of the state.

Endnotes

[1] *Edgewood Independent School District v. Kirby*, 777 S.W.2d 391 (1989).
[2] *Helena Elementary School District No. 1 v. State of Montana*, 769 P.2d 584 (1989).
[3] *Rose v. The Council for Better Education, Inc.*, 790 S.W.2d 186 (1989).
[4] *Abbott*, 575 A.2d 359.
[5] 851 S.W.2d 139 (Tenn. 1993).
[6] *Tenn. Const.* art. XI sec. 12.
[7] *Tenn. Const.* art. XI sec. 8, art. I sec. 8.
[8] *Id.*, 143-144.
[9] *Id.*, 143-145.
[10] *Id.*, 152-156.
[11] *Id.* at 145.
[12] *Id.* at 156.
[13] CV-90-883-R (1993).
[14] *Ala. Const.* art. 14 sec. 256.
[15] *Ala Const.* art. 1 sec. 1.
[16] *Alabama Coalition*, CV-90-883-R at 5.
[17] *Id.* at 37.
[18] *Id.* at 38.
[19] *Id.* at 59.
[20] *Id.*, 60-61.
[21] *Id.* at 5.
[22] *Id.* at 24
[23] *Id.* at 11.

[24] *Id.*, 10-11.
[25] *Id.* at 20.
[26] *Opinion of the Justices,* 624 So.2d 107 (Ala. 1993).
[27] 615 N.E.2d 516 (Mass. 1993).
[28] *Mass. Const.* Part II, C. 5, sec. 2. The system was additionally charged with violating Arts. 1 and 10 of the Declaration of Rights of the Mass. Const.
[29] *Id.*, 520-521.
[30] *Id.*, 522.
[31] *Id.*, 521-522.
[32] *Id.* at 522.
[33] *N.D. Const.* art. VIII sec. 1, 2.
[34] *N.D. Const.* art. I sec. 21, 22.
[35] 511 N.W.2d 247 (1994).
[36] Though the court declared the funding system constitutionally deficient, it lacked the constitutionally required supermajority necessary to declare the system unconstitutional. *N.D. Const.* art. VI sec. 4.
[37] *Bismarck,* 256-257.
[38] *Id.*, 257-260.
[39] *Id.*, 260-262.
[40] *Id.* at 261.
[41] 877 P.2d 806.
[42] *Ariz. Const.* art. XI.
[43] *Ariz. Const.* art. II sec. 13.
[44] *Roosevelt,* 877 P.2d at 806.
[45] *Id.*, 808-809.
[46] *Id.* at n. 3.
[47] *Id.*, 813-814.
[48] *Id.*, 814-816.
[49] *Id.* at 811.
[50] 506 N.W.2d 349 (Neb. 1993).
[51] *Neb. Const.* art. I sec. 1,3.
[52] *Gould,* 506 N.W.2d at 353.
[53] *Id.* at 351.
[54] *Id.* at 353.
[55] *Id.* at 353.
[56] 505 N.W.2d 299 (Minn. 1993).
[57] *Id.*, 306-307.
[58] Minn. Const. art. XIII sec. 1.
[59] Minn. Const. art. I sec. 2.
[60] *Skeen,* 505 N.W.2d at 299.
[61] *Id.*, 302-303.
[62] *Minn. Const.* art. XIII sec. 1.
[63] *Skeen,* 505 N.W.2d at 310.
[64] *Skeen,* 505 N.W.2d at 313.
[65] *Id.* at 315.
[66] *Id.* at 314.
[67] *Id.* at 316.
[68] *Id.* at 318.
[69] No. 94-1906 (2nd Cir. Court, 1995).
[70] *Fla. Const.* art. IX sec. 1.
[71] *Coalition for Adequacy,* No. 94-1906 at 2.

[72] *Id.*, 2-4.
[73] 891 P.2d 675 (Or. 1995).
[74] *Or. Const.* art. XI sec. 11.
[75] *Or. Const.* art. VIII sec. 3.
[76] *Or. Const.* art. I sec. 20.
[77] *Withers*, 891 P.2d at 119-120.
[78] 554 P.2d 139 (Or. 1976).
[79] *Withers*, 891 P.2d at 120-121.
[80] *Id.* at 121-122.
[81] 606 N.Y.S.2d 44 (A.D. 2 Dept. 1993).
[82] *N.Y. Const.* Art. XI sec. 1.
[83] *N.Y. Const.* Art. XI sec. 1.
[84] *U.S. Const.* amend. XIV.
[85] N.Y., 439 N.E.2d 359 (1982).
[86] *R.E.F.I.T.*, 606 N.Y.S.2d at 46.
[87] 205 A.D.2d 272, 619 N.Y.S.2d 699 (1994).
[88] *Campaign for Fiscal Equity, Inc. v. State; City of New York v. State*, 616 N.Y.S.2d 851 (1994).
[89] *N.Y. Const.* Art. XI sec. 1.
[90] *Campaign for Fiscal Equity*, 616 N.Y.S.2d at 853-854.
[91] N.Y., 439 N.E.2d 359 (1982).
[92] *Campaign for Fiscal Equity*, 616 N.Y.S.2d at 854-855.
[93] *U.S. Const.* amend. XIV.
[94] *N.Y. Const.* art. I sec. 11.
[95] *Campaign for Fiscal Equity*, 616 N.Y.S.2d at 854-855.
[96] 42 USC sec. 2000d et seq.
[97] *Campaign for Fiscal Equity*, 616 N.Y.S.2d at 855. The court did, however, rule that sufficient cause for action had been established in regard to 34 C.F.R. sec. 100.3.
[98] *N.Y. Const.* art. I sec. 11.
[99] *Campaign for Fiscal Equity*, 616 N.Y.S.2d at 856.
[100] *Campaign for Fiscal Equity*, 619 N.Y.S.2d at 274-279.